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Samsung Hit With \$15M Jury Verdict For Phone Photo Patent

By Jess Davis

Law360, Dallas (April 08, 2013, 4:16 PM ET) -- A Texas federal jury on Friday found Samsung Electronics Co. Ltd. must pay \$15 million in damages to technology licensing company Summit 6 LLC, which owns a photo upload patent that Samsung's cellphones are accused of infringing on when they send messages.

After a week-long trial, the eight-member jury said both Samsung and its Samsung Telecommunications America LLC unit infringed on five claims of U.S. Patent No. 7,765,482, which covers software that automatically processes digital photos before they are transmitted over a network by client devices, such as cellphones. The jury rejected Samsung's arguments that the infringed claims of the '482 patent were invalid because of prior art, and said Samsung should pay a lump sum of \$15 million to compensate for the infringement.

"The jury's verdict affirms that Summit 6's innovations are both novel and valuable," said Ted Stevenson of McKool Smith PC, lead trial counsel for Summit 6, in a statement Sunday. "Along with our client, we are pleased with the verdict."

Summit 6, the owner by assignment of the '482 patent **had asked for \$29 million in damages**, saying it was owed a 28 cent royalty on each of the 106 million cellphones sold by Samsung in the past three years, because its patented technology formed the backbone of picture messaging capability on Samsung's phones. It said the technology, invented in 1998, helps hundreds of the world's leading websites quickly process photos for faster uploads and displays, rather than forcing consumers to edit photos manually, saving time and energy.

A Samsung representative said Monday the company would pursue "all available paths" to overturn the verdict, including an appeal to the Federal circuit.

"Samsung continues to believe the patent asserted by the plaintiff is invalid and we do not infringe the patent," the company said. "We do not expect that the verdict will impact on our sales of mobile devices and will ensure that we continue to provide consumers with our products without interruption."

Samsung had told the jury it doesn't owe Summit 6 a dime, arguing its phones don't infringe the patent because they preprocess photos only to send photos to Samsung servers, not for publication online, as it said the patent claims require. In addition, Samsung contended the '482 patent was invalid because Canadian company Point 2 invented the same preprocessing technology more than a year and a half before Pictureworks — an imaging software company that later assigned the patent to the entity that became Summit 6.

The jury began deliberations Thursday and issued the verdict Friday.

The case, filed in February 2011, also alleged Facebook Inc., Photobucket Corp., Multiply Inc. and BlackBerry — then named Research In Motion Corp. — had infringed claims of the '482 patent and parts of U.S. Patent No. 6,895,557, also for media upload technology. Every company but Samsung settled before trial, with Facebook in February agreeing to pay \$20 million to license the technology, BlackBerry forking over \$3 million for a license in October and Photobucket agreeing in July to pay a per-photo royalty to Summit 6, Stevenson said at the trial.

The verdict followed the release Thursday of an amended ruling from the U.S. International Trade Commission that held Samsung's smartphones infringe an Apple Inc. patent covering a text selection feature, **in a decision** that could lead to imports of the products being banned from the U.S. if it is upheld by the full ITC. Administrative Law Judge Thomas B. Pender said Samsung's text selection feature infringes two additional claims of Apple's patent on a method of providing translucent images on a computer display.

The patent-in-suit is U.S. Patent No. 7,765,482.

Summit 6 is represented by Theodore Stevenson III, Mitchell Reed Sibley, Ashley N. Moore, John B. Campbell, Phillip M. Aurentz, Kevin L. Burgess, Douglas A. Cawley, Kathy Hsinjung Li, and James Quigley of McKool Smith PC and by Bradley W. Caldwell of Caldwell Cassady & Curry.

Samsung is represented by Mark D. Fowler, James R. Nelson, Brian K. Erickson, Chang Kim, Krista Anne Celentano, Todd S. Patterson and Andrew P. Valentine of DLA Piper LLP.

The case is Summit 6 LLC v. Research in Motion Corp. et al., case No. 3:11-cv-00367, in the U.S. District Court for the Northern District of Texas.

--Additional reporting by Ryan Davis. Editing by Chris Yates.

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